

August 6, 2004

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.,
Washington, D.C. 20551

Via e-mail: regs.comments@federalreserve.gov

Subject: [Regulation DD; Docket No. R-1197] Truth in Savings

We are pleased to respond to the Board of Governors' of the Federal Reserve System request for comment concerning the proposed changes to Federal Reserve Regulation DD issued by the Board of Governors of the Federal Reserve System ("Board").

First National Bank of Chester County has offered our customers an overdraft program for the past four years. Since implementing this overdraft program First National Bank of Chester County has followed the best practices guidelines with much success. Customers who have utilized the service have called to offer their appreciation with our service.

First National Bank of Chester County agrees with the Board of Governors' statement that additional information regarding the cost of overdraft services may be provided to the consumer under Truth in Savings Act and Regulation DD as opposed to Truth in Lending Act and Regulation Z which would be extremely burdensome to institutions and would serve no additional consumer need.

Our comments on the Proposal are set forth below and are identified by the title of the section of the Proposal to which they relate.

Section 230.2 Definitions

2(b) Advertisements

The proposal defines advertisement as any additional communications to the customer regarding the vendor 'overdraft protection program'. If this meaning is accepted this could define our activation letters, notices of alternative services to prevent overdrafts or notice an item has been paid through the overdraft program sent to the customer would be defined as advertisement. First National Bank of Chester County believes that this section needs to be clarified or we will be prohibited from communicating to our customers' timely information regarding their transactional accounts.

Section 230.4 Account Disclosures

4(b) (4) Fees

The Board stated their concern that “some consumers may not be aware of the total amount of fees being imposed and the amount by which the account is overdrawn until the next periodic statement is received.” First National Bank of Chester County believes that depository institutions generally provide their customers with notices disclosing the amount of the item overdrawing the account, the date the item was presented for payment, the amount the account was overdrawn if paid (or indicates the item was returned), the amount of the fee imposed and a statement that the total amount of the overdraft is payable immediately. Therefore we do not believe the consumers are unaware of the total amount of fees being imposed or that they are unaware of the amount of the overdraft being created.

In addition, First National Bank of Chester County account disclosures state an overdraft (NSF) fee may result upon the completion of ATM, POS, or other electronically transmitted transaction which would activate the overdraft protection service. First National Bank of Chester County offers the customer an opportunity to opt out of authorization of debit card transactions with the overdraft protection program. First National Bank of Chester County agrees with the Board of Governors’ request that additional signage be placed at depository institution ATMs reminding the customer that NSF fees may result upon completion of the transaction.

Section 230.6 Periodic Statement Disclosures

6(a) (3) Fees Imposed

First National Bank of Chester County has the following comments regarding the disclosure of overdraft fees.

Depository institutions disclose overdraft fees upon account opening in accordance with Regulation DD and identify fees imposed during the statement cycle on the customers’ periodic statement. In addition most if not all depository institutions send notices which disclose the overdraft fees that will accrue upon the creation of the overdraft.

The change in the periodic disclosure of overdraft fees would require substantial reprogramming of systems and a redesign of the customer’s monthly statement at a significant cost to depository institutions. First National Bank of Chester County does not believe this additional disclosure is worth the sizable cost to the industry, especially since notices are sent to the customer informing the customer of the overdraft at the time of the occurrence.

First National Bank of Chester County has the following concerns regarding the section of the Proposal covering the additional disclosures in connection with automated overdraft services.

First National Bank of Chester County believes that unless properly qualified, a description of circumstance under which overdrafts will not be paid, even in general terms, may give consumers a false or misleading impression that their overdrafts will be paid if they meet the general criteria. However, the depository institutions retain the sole discretion to pay or not pay the items whether or not the customer meets the outlined criteria. First National Bank of Chester County suggests a better approach would be to require that depository institutions make it clear that, even if certain general qualifications are met items may still be returned unpaid because the depository institution retains the discretion to do so. The emphasis ought to be on the discretionary nature of the service, not on disclosing the circumstances in which the discretion will be exercised.

The Proposal states “bounced-check protection is an automated service that is sometimes provided to deposit account consumers as an alternative to a traditional line of credit.” First National Bank of Chester County submits that all depository institutions have provisions in their transaction account agreements that provide that the depository institutions may, at their sole discretion, pay or return items that are presented against insufficient funds. Therefore, all depository institutions offer a “bounced-check protection” service in some form. First National Bank of Chester County believes the final ruling that the Board adopts should apply to all depository institution which offer a “bounced-check protection program” or the “traditional discretionary payment of overdrafts”. In addition, First National Bank of Chester County believes the term “discretion” cannot be adequately defined; any attempt to describe the circumstances in which it may be exercised may only add to the confusion rather than alleviate it.

First National Bank of Chester County would like to thank you for the opportunity to submit our comments on the Proposal to the Board. I would be happy to answer any questions the Board might have regarding our comments.

Respectfully submitted,

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